

source of terrorist threat to the United States.

(3) Each and every target of a rendition was vetted by a battery of lawyers at CIA and not infrequently by lawyers at the National Security Council and the Department of Justice. For each rendition target, I, and then my successors as the chief of the bin Laden/al-Qaeda operations, had to prepare and present a written brief citing and explaining the intelligence information that made the rendition target a threat to the United States and/or its allies. If the brief persuaded the lawyers, the operation went ahead. If the brief was insufficient, the lawyers disapproved and no operation was conducted against that target until additional reliable evidence was collected.

—Let me be very explicit and precise on this point. Not one single al-Qaeda leader has ever been rendered on the basis of any CIA officer's "hunch" or "guess" or "caprice." These are scurrilous accusations that became fashionable after the Washington Post's correspondent Dana Priest revealed information that damaged U.S. national security and, as result, won a journalism prize for abetting America's enemies, and when such lamentable politicians as Senators McCain, Rockefeller, Graham, and Levin followed Ms. Priest's lead and began to attack the men and women of CIA who had risked their lives to protect America under the direct orders of two U.S. presidents and with the full knowledge of the intelligence committees of the United States Congress. Both Ms. Priest and the gentlemen just mentioned have behaved disgracefully, and ought to publicly apologize to the CIA's men and women who have executed the Rendition Program.

(4) To proceed, the Rendition Program has been the single most effective counterterrorism operation ever conducted by the United States government. Americans are safer today because of the program, but that degree of safety will ebb as the Senators just mentioned slowly but surely destroy the program. If there are those in this Congress, in the media, in this country, or in Europe who believe that we would be safer if Khalid Shaykh Muhammed, Abu Zubaydah, Mr. Hambali, Ibn Shaykh al-Libi, Khalid bin Attash, and several dozen other senior al-Qaeda leaders were still free and on the street, then the educational systems and the reservoirs of common sense on both sides of the Atlantic are in much more dilapidated shape than I thought.

(5) On the issue of how rendered al-Qaeda leaders have been treated in prison, I am unable to speak with authority about the conditions these men found in the Middle Eastern prisons they were delivered to at President Clinton's direction. I would not, however, be surprised if their treatment was not up to U.S. standards, but this is a matter of no concern as the Rendition Program's goal was to protect America and the rendered fighters delivered to Middle Eastern governments are now either dead or in places from which they cannot harm America. Mission accomplished, as the saying goes.

Under President Bush, the rendered al-Qaeda fighters held in U.S. custody have been treated according to guidelines that were crafted by U.S. government lawyers, approved by the Executive Branch, and briefed to and permitted by at least the four senior members of the two congressional intelligence oversight committees.

(6) Finally, I will close by saying that mistakes may well have been made during my tenure as the chief of CIA's bin Laden operations, and, if there were errors, they are my responsibility. Intelligence information is not the equivalent of court-room-quality evidence, and it never will be. But I will again

stress that no rendition target was ever approved or captured without a written brief composed of intelligence information that persuaded competent U.S. government legal authorities. If mistakes were made, I can only say that that is tough, but war is a tough and confusing business, and a well-supported chance to take action and protect Americans should always trump other considerations, especially pedantic worries about whether or not the intelligence data is air tight.

—To destroy the Rendition Program because of a mistake or two or more would be to sacrifice the protection of Americans to venal and prize-hungry reporters like Ms. Priest, grandstanding politicians like those mentioned above, and effete sanctimonious Europeans who take every bit of American protection offered them while publicly damning and seeking jail time for those who risk their lives to provide the protection. If the Rendition Program is halted, we will truly be able to say, by paraphrasing the late film actor John Wayne, that: War is tough, but it is a lot tougher if you are deliberately stupid.

Mr. ALEXANDER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

TAX BURDEN AND BAILOUTS

Mr. KYL. Mr. President, first, I would like to ask unanimous consent that two op-eds be printed in the RECORD. Let me identify them both.

The first is a piece in the Washington Post of today by Robert Samuelson, titled "Tax Dodge Myths." I think he is one of the best economists and writers in this country. He always has something very useful to say, and his column today made the point that it would be folly for the United States to add a tax burden on American corporations such as Coca-Cola, IBM, Microsoft, Caterpillar—companies like that—that are multinational in the sense that they do business here but also do business in other countries.

It simply makes no sense to add a tax burden onto them as if they are doing something unpatriotic by selling our products in other countries as well as in the United States.

The other is a piece called "The Chrysler Power Grab." It was carried in the Arizona Republic on May 6 of this year and was written by the finest columnist in Arizona. His name is Bob Robb.

In this column, he notes the irony of the fact that the United States has been bailing out two American companies—Chrysler and General Motors—for the purpose of saving American jobs, when in point of fact it looks as though a lot of the results of this action are going to be to transfer jobs to other countries and ironically to compete with companies that may be owned abroad, such as Toyota, but have a lot of American workers. He talks about the fact that Fiat, an Italian company, is hard to distinguish from Toyota, a Japanese company, but we are apparently saving the jobs for Fiat but not those for Toyota.

In any event, I think these are two interesting columns, and I ask unani-

mous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 11, 2009]

TAX DODGE MYTHS

(By Robert J. Samuelson)

The U.S. tax code is "full of corporate loopholes that makes it perfectly legal for companies to avoid paying their fair share."—President Obama, May 4.

Like it or not, ours is a world of multinational companies. Almost all of America's brand-name firms (Coca-Cola, IBM, Microsoft, Caterpillar) are multinationals, and the process works both ways. In 2006, the U.S. operations of foreign firms employed 5.3 million workers. Fiat's looming takeover of Chrysler reminds us again that much business is transnational.

For most people, the multinational company is a troubling concept. Loyalty matters. We like to think that "our companies" serve the broad national interest rather than just scouring the world for the cheapest labor, the laxest regulations and the lowest taxes. And the tax issue is especially vexing: How should multinationals be taxed on the profits they make outside their home countries?

Listen to President Obama, and the status quo seems a cesspool. Pervasive "loopholes" engineered by "well-connected lobbyists" allow U.S. multinationals to skirt American taxes and outsource jobs to low-tax countries. So the president proposes plugging loopholes. Some jobs will return to the United States, he said, and U.S. tax coffers will grow by \$210 billion over the next decade.

Sounds great—and that's how the story played. "Obama Targets Overseas Tax Dodge," headlined The Post. But the reality is murkier; the president's accusatory rhetoric perpetuates many myths.

Myth: Aided by those overpaid lobbyists, American multinationals are taxed lightly—less so than their foreign counterparts.

Reality: Just the opposite. Most countries don't tax the foreign profits of their multinational firms at all. Take a Swiss multinational with operations in South Korea. It pays a 27.5 percent Korean corporate tax on its profits and can bring home the rest tax-free. By contrast, a U.S. firm in Korea pays the Korean tax and, if it returns the profits to the United States, faces the 35 percent U.S. corporate tax rate. American companies can defer the U.S. tax by keeping the profits abroad (naturally, many do), and when repatriated, companies get a credit for foreign taxes paid. In this case, they'd pay the difference between the Korean rate (27.5 percent) and the U.S. rate (35 percent).

Myth: When U.S. multinationals invest abroad, they destroy American jobs.

Reality: Not so. Sure, many U.S. firms have shut American factories and opened plants elsewhere. But most overseas investments by U.S. multinationals serve local markets. Only 10 percent of their foreign output is exported back to the United States, says Harvard economist Fritz Foley. When Wal-Mart opens a store in China, it doesn't close one in California. On balance, all the extra foreign sales create U.S. jobs for management, research and development (almost 90 percent of American multinationals' R&D occurs in the United States), and the export of components. A study by Foley and economists Mihir Desai of Harvard and James Hines of the University of Michigan estimates that for every 10 percent increase in U.S. multinationals' overseas payrolls, their American payrolls increase almost 4 percent.

Myth: Plugging overseas corporate tax loopholes will dramatically improve the budget outlook as multinationals pay their "fair" share.

Reality: Dream on. The estimated \$210 billion revenue gain over 10 years—money already included in Obama's budget—represents only six-tenths of 1 percent of the decade's tax revenue of \$32 trillion, as projected by the Congressional Budget Office. Worse, the CBO reckons that Obama's endless deficits over the decade will total a gut-wrenching \$9.3 trillion.

Whether Obama's proposals would create any jobs in the United States is an open question. In highly technical ways, Obama would increase the taxes on the foreign profits of U.S. multinationals by limiting the use of today's deferral and foreign tax credit. Taxing overseas investment more heavily, the theory goes, would favor investment in the United States.

But many experts believe his proposals would actually destroy U.S. jobs. Being more heavily taxed, American multinational firms would have more trouble competing with European and Asian rivals. Some U.S. foreign operations might be sold to tax-advantaged foreign firms. Either way, supporting operations in the United States would suffer. "You lose some of those good management and professional jobs in places like Chicago and New York," says Gary Hufbauer of the Peterson Institute.

Including state taxes, America's top corporate tax rate exceeds 39 percent; among wealthy nations, only Japan's is higher (slightly). However, the effective U.S. tax rate is reduced by preferences—mostly domestic, not foreign—that also make the system complex and expensive. As Hufbauer suggests, Obama would have been better advised to cut the top rate and pay for it by simultaneously ending many preferences. That would lower compliance costs and involve fewer distortions. But this sort of proposal would have been harder to sell. Obama sacrificed substance for grandstanding.

[From the Arizona Republic]

THE CHRYSLER POWER GRAB

The proposed end games for General Motors and particularly Chrysler illustrate why government shouldn't have gotten involved in the first place.

It's worthwhile to begin with the broader picture. Americans used to buy about 17 million new cars and trucks a year. Now, we're buying less than 10 million. That, of course, puts considerable stress on manufacturers with weaker products or financial structures.

How many new cars Americans will want to purchase in the future is unknown. But there can be a high degree of confidence in this: however many it is, someone will sell them to us.

Moreover, they are likely to be produced in the United States. A majority of cars sold by foreign manufacturers in the U.S. are actually built here.

So, why should the federal government care who it is that sells us our cars? There are two rationales offered. First, to preserve an "American" auto industry. Second, to preserve "American" jobs.

The proposed Chrysler restructuring gives the lie to both rationales.

Under the Obama administration's proposal, Chrysler would, in essence, be given to Fiat, an Italian company, to operate.

So, how is an Italian car manufacturer operating in Michigan any more "American" than a Japanese manufacturer operating in Kentucky?

And why should the federal government give a market preference—through taxpayer

financing and warrantee guarantees to Italian cars produced by American workers in Michigan over Japanese cars produced by American workers in Kentucky?

The Obama administration's proposed restructuring is more than just unjustified, however. It dangerously undermines the rule of law, as explicated so beneficially by Friedrich Hayek in his classic, "The Road to Serfdom."

The essence of the rule of law, according to Hayek, is that what the government will do is known to all economic actors in advance. That government will not act arbitrarily in specific circumstances to favor some economic actors over others.

Chrysler has \$6.9 billion in secured debt. Under the law, secured lenders have the first claim on the assets of the debtor in the event of non-payment.

The Obama administration is attempting to muscle past this law. Under its proposal, the health care trust of the auto workers' union, an unsecured creditor, would forgive 57 percent of what Chrysler owes it, and receive 55 percent of the company's equity in exchange. The federal government would forgive about a third of what it would loan Chrysler and receive 8 percent of the company's equity. Fiat would pay nothing for its 20 percent initial ownership.

The secured creditors, with the first claim on Chrysler's assets, were asked to forgive 70 percent of what they are owed and receive nothing in equity. When they refused and forced the company into bankruptcy, they were excoriated by Obama—a shameful act by a president who pledged to uphold the law, not make it up as he went along.

The purported GM restructuring is equally lopsided. The union trust would forgive half of what it is owed and receive 39 percent of the company. The government would forgive half of what it is owed and receive 50 percent of the company. The other private lenders, in this case unsecured, would forgive 100 percent of what they are owed and receive just 10 percent of the company.

In his recent press conference, Obama said he had no interest in owning or operating car companies. Until this point, I was willing to accept Obama at his word, while fundamentally disagreeing with his economic policies.

Given his actions, however, it's hard to credit his disclaimer in this instance.

These proposed restructurings are power grabs, pure and simple. The positions of lenders are eviscerated to give control to the union trust and the government. The emergent companies are given market preference through taxpayer financing and government warrantee guarantees. All to serve no true national purpose.

CONDUCTING U.S. GOVERNMENT BUSINESS

Mr. KYL. Mr. President, let me commend my colleague from Tennessee. I thought his remarks were right on the spot. When we start looking backward instead of forward, we want to be careful what we ask for because we just might get it, and it might be more than we bargained for.

There have been a lot of mistakes the United States has made, a lot we are not very proud of, and my colleague mentioned a couple of those. There were certainly things in the last Democratic administration for which, had some of the officials there had it to do over again, I am sure they would do over. There were things the Republican administration that succeeded the

Clinton administration undoubtedly disagreed with, but it seems to me that President Bush has acquitted himself very well as a former President, not criticizing the administration he succeeded, and certainly not suggesting those disagreements should take the form of political trials or even criminal trials. It would be very unseemly for that to occur with respect to the Bush administration now that we have a new Obama administration.

But people who served previously in the Clinton administration, obviously those who served in the Congress and knew something about what went on, would certainly have to be prepared to defend themselves under these circumstances as well. It is just an unseemly way, it seems to me—and I agree with my colleague from Tennessee—for the U.S. Government to be conducting its business. So I commend my colleague, Senator ALEXANDER, for his statement.

GUANTANAMO BAY

Mr. KYL. Mr. President, on a related matter, the Guantanamo Bay detention facility and what we do about that—as everyone knows, our President fulfilled a campaign promise when he issued an Executive order to close the Guantanamo Bay detention facility.

Both President Bush and Secretary Gates had wanted to close it, but they were confronted with a very difficult problem: what to do with the prisoners at the facility.

President Obama now faces that same dilemma. Campaign rhetoric, it turns out, is one thing; governing is quite another.

There are far more questions than answers about what the administration will do with the prisoners at Guantanamo. Will it hold them? Where will it hold them? Will they be sent to the United States? Will they be kept in military facilities or in Federal prisons here in the United States? How will it guarantee that those who are released do not return to the battlefield?

We don't have answers, of course, to these questions. Yet the administration has asked Congress for \$80 million, some of which, as is quite clearly stated in the language of the request, could be used to transfer these detainees to the United States.

Last week, during the House Appropriations Committee's markup of the President's supplemental appropriations request, the chairman struck the \$80 million, noting that he could not defend the request because the administration does not have a plan for closure. As the Senate Appropriations Committee prepares to mark up the supplemental request this week, I urge the committee to follow the example of the House of Representatives. Majority Leader REID has just informed us that the Senate committee would "fence" the \$80 million, meaning that it would release it only when there is a plan,